

AMENDED IN ASSEMBLY SEPTEMBER 10, 2013

AMENDED IN ASSEMBLY SEPTEMBER 6, 2013

AMENDED IN ASSEMBLY AUGUST 5, 2013

AMENDED IN SENATE MAY 28, 2013

AMENDED IN SENATE MAY 7, 2013

AMENDED IN SENATE APRIL 24, 2013

AMENDED IN SENATE MARCH 21, 2013

SENATE BILL

No. 39

Introduced by Senator De León

(Principal coauthor: Assembly Member John A. Pérez)

December 5, 2012

An act to add Section 53244 to the Government Code, relating to local government, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 39, as amended, Senator De León. Local agencies: public officers: claims and liability.

(1) Existing law provides for the governance of local agencies and specifically prescribes the rights and duties of their officers and employees. Existing law authorizes local agencies to establish retirement systems for the provision of pension benefits to officers and employees of the agencies and commits the administration of those systems to retirement boards. Existing law establishes a process for making claims on local agencies and excepts from that process applications for money or benefits from a public pension or retirement system. *Existing law,*

the California Public Employees' Pension Reform Act of 2013, requires the forfeiture of specified retirement benefits by an elected public officer or a public employee, as defined, if that officer or employee is convicted of a felony for conduct arising out of, or in the performance of, his or her official duties.

~~This bill would limit and specify the remedies available to require the forfeiture of a contractual, common law, constitutional, or statutory claim against a local public agency employer to retirement or pension rights or benefits, as specified, by a local public officer who exercised discretionary authority and who was convicted of a felony for conduct arising out of, or in the performance of, his or her official duties, and who believes that he or she is entitled to a claim against his or her employer for the funding of retirement benefits, however characterized, that have been disallowed by a public retirement system. The bill would specify the claims to which it would apply duties. The bill would also make a statement of findings.~~

(2) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares that local
2 public agencies need protection from disgraced and avaricious
3 public officials who, following conviction for crimes arising out
4 of the performance of their official duties, continue to ~~abuse the~~
5 ~~public trust~~ *seek unfair benefits at public expense* by asserting a
6 claim that their former employers owe them the value of pension
7 ~~benefits~~ *benefits, including benefits* that the public retirement
8 systems charged with administration of those benefits have
9 rightfully disallowed.

10 SEC. 2. Section 53244 is added to the Government Code, to
11 read:

12 53244. (a) A local public officer, as defined in subdivision
13 (b), ~~who believes that he or she is entitled to claim, from a local~~
14 ~~public agency employer, for funding of retirement benefits that~~
15 ~~have been disallowed by a public retirement system, however those~~
16 ~~benefits may be characterized, including, but not limited to, as lost~~
17 ~~compensation, may only pursue that claim through the~~

1 ~~administrative process and appeal procedure available under the~~
2 ~~applicable public retirement system. The local public agency~~
3 ~~employer shall only be responsible for amounts awarded to the~~
4 ~~local public officer as provided in this subdivision.~~ *is convicted*
5 *by a state or federal trial court of any felony under state or federal*
6 *law for conduct arising out of, or in the performance of, his or her*
7 *official duties shall forfeit any contract right or other common*
8 *law, constitutional, or statutory claim against a local public agency*
9 *employer to retirement or pension rights or benefits, however those*
10 *benefits may be characterized, including lost compensation, other*
11 *than the accrued rights and benefits to which he or she may be*
12 *entitled under any public retirement system in which he or she is*
13 *a member. The forfeiture provided by this section shall be in*
14 *addition to, and independent of, any forfeiture of public retirement*
15 *system rights and benefits pursuant to Section 7522.70, 7522.72,*
16 *or 7522.74.*

17 (b) For the purposes of this section, “local public officer” means
18 a person, either elected or appointed, ~~with all of the following~~
19 ~~characteristics:~~ *who exercised discretionary, executive authority*
20 *in his or her employment.*

21 ~~(1) The person exercised discretionary, executive authority in~~
22 ~~his or her employment.~~

23 ~~(2) The person was convicted of a felony for conduct arising~~
24 ~~out of, or in the performance of, his or her official duties.~~

25 ~~(3)~~

26 (c) This section shall apply to any claim filed prior to ~~January~~
27 ~~1, 2014~~ *the effective date of the act enacting this section*, and still
28 pending on that date, and any claim commenced after that date.

29 (d) *Upon conviction, a local public officer as described in*
30 *subdivision (a), and the prosecuting agency shall each notify the*
31 *public employer who employed the local public officer at the time*
32 *of the commission of the felony within 60 days of the felony*
33 *conviction. The operation of this section is not dependent upon*
34 *the performance of the notification required by this subdivision.*

35 SEC. 3. This act is an urgency statute necessary for the
36 immediate preservation of the public peace, health, or safety within
37 the meaning of Article IV of the Constitution and shall go into
38 immediate effect. The facts constituting the necessity are:

39 In order to protect the public from local public officers who are
40 convicted of felonies due to violations of the public trust and who

1 ~~continue to abuse the public trust and rob the taxpayers, seek unfair~~
 2 ~~benefits at public expense,~~ it is necessary that this act take effect
 3 immediately.

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6 **CORRECTIONS:**

7 **Heading—Line 2.**

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